

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
for the
DISTRICT OF VERMONT

2016 SEP -1 PM 2: 20

CLERK
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Michael Hathaway and Karen Hathaway
Plaintiffs

Civil Action No.:

5:16-cv-238

v.

Kent Corporation, a foreign corporation
Defendant

COMPLAINT

Pursuant to Fed.R.Civ.P. 8, Plaintiff Michael Hathaway and Plaintiff Karen Hathaway file this Complaint against Defendant Kent Corporation and allege as follows:

- 1.) Michael Hathaway is a resident of Milton, Chittenden County, Vermont;
- 2.) Karen Hathaway is Michael Hathaway's spouse and is a resident of Milton, Chittenden County, Vermont.
- 3.) Defendant Kent Corporation is a foreign corporation with its principal place of business in Muscatine, Iowa.
- 4.) Mr. John Cornell was employed with Defendant Kent Corporation on October 28, 2013.
- 5.) This Court has jurisdiction over this matter due to the parties' diversity of resident pursuant to 28 U.S.C. § 1332.
- 6.) Mr. Hathaway, who suffered significant physical injuries as a result of this accident, has suffered damages in excess of \$75,000.00, exclusive of any costs or interests.
- 7.) On October 28, 2013, Michael Hathaway was traveling to a worksite when the ramp of the trailer he and a colleague, Douglas Cone, were hauling became loose.

- 8.) Mr. Hathaway and Douglas Cone pulled to the side of Interstate 89 to secure the trailer ramp.
- 9.) While Mr. Hathaway engaged in securing the ramp, John Cornell, an employee of Defendant Kent Corporation, was operating a car owned by Defendant Kent, traveling south on Interstate 89, in the course and scope of his employment with Kent Corporation.
- 10.) As an employer, Defendant Kent Corporation is vicariously liable for the negligent actions of its employee, John Cornell.
- 11.) John Cornell failed to keep a proper watch where he was driving and failed to keep control of his vehicle, and allowed his vehicle to drift from the travel lane of Interstate 89, and crashed into the trailer Mr. Hathaway was working on.
- 12.) The momentum of the Defendant's vehicle crashing into the trailer pushed the trailer into the pickup truck to which it was attached, which then impacted Michael Hathaway, catapulting him over the guardrail and down the embankment adjacent to Interstate 89.
- 13.) John Cornell was ticketed for his negligent operation of the vehicle for breach of 23 V.S.A. §1038, creating a presumption of negligence.
- 14.) Due to inattention, John Cornell negligently operated the motor vehicle he was driving which caused the accident harming Michael Hathaway. He also negligently failed to keep a proper lookout and failed to control his vehicle and keep it in the proper lane of traffic, and negligently failed to avoid colliding with a vehicle that could easily be seen had John Cornell used ordinary care in traveling on Interstate 89.
- 15.) As a result of John Cornell's negligent actions, for which Defendant Kent Corporation is vicariously liable, Michael Hathaway suffered serious physical injury, psychological harm, pain and suffering, incurred lost wages, incurred medical expense, suffered permanent impairment and suffered loss of enjoyment of life.
- 16.) The damages Mr. Hathaway suffered are a direct and proximate result of John Cornell's negligence for which Defendant Kent Corporation is vicariously liable.
- 17.) Karen Hathaway is Michael Hathaway's spouse.
- 18.) As a direct and proximate result of the Defendant's negligence, Karen Hathaway has suffered a loss of consortium with her husband, Michael Hathaway.
- 19.) To name some of her damages, Karen Hathaway has shouldered a greater burden of the household chores, she has cared for and been supportive of her husband, she has lost a degree his companionship and a degree of intimacy with him, and has experienced physical distress and emotional distress as a result.

WHEREFORE, Michael Hathaway and Karen Hathaway both seek judgment against Defendant Kent Corporation for all of the physical and psychological and compensatory harms which they have

individually suffered, and seek an award of interest on any compensatory damages, and seek whatever other relief the Court deems just and equitable.

Dated at Burlington, Vermont this 15 day of September 2016.

MICHAEL HATHAWAY

BY:



Christopher McVeigh, Esq.

McVeigh ♦ Skiff

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